

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

JUAN FERNANDO CHAVEZ	§	
	§	CIVIL ACTION NO.
v.	§	
	§	_____
UNITED STATES OF AMERICA	§	

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JDUGE OF SAID COURT:

JUAN FERNANDO CHAVEZ, Plaintiff, files his PLAINTIFF'S ORIGINAL COMPLAINT, complaining of the United States Postal Service, and would show as follows:

I.

PARTIES

I.1 Plaintiff is a resident of Hidalgo County, Texas.

I.2 Defendant United States of America is a governmental entity which owns the United States Postal Service. Defendant has designated itself as the responsible Defendant when the United States Post Office is to be sued for tort claims.

I.3 Plaintiff will seek to have Defendant file a waiver of service. Should this prove unsuccessful, Plaintiff will effect service as proscribed by law.

II.

JURISDICTION AND VENUE

II.1 This Court possesses jurisdiction pursuant to 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1339 (post office). Jurisdiction is also authorized pursuant to 39 C.F.R. 912.9(a).

II.2 The requisites of the Federal Tort Claims Act have been satisfied. As required by 28 U.S.C. §2675, a complaint was filed with the United States Post Office on or about March 20, 2018. Such form was denied on or about August 6, 2018. This lawsuit is filed within six months of such denial.

II.3 Venue is proper pursuant to 28 U.S.C. §1391(b)(2), because Plaintiff's cause of action or a part thereof accrued in Hidalgo County, Texas.

III.

UNDERLYING FACTS

III.1 On or about May 13, 2017, Plaintiff was driving westbound on the 1200 block of Saint Clair Street in Mission, Hidalgo County, Texas.

III.2 At the same time Plaintiff was driving on May 13, 2017, Jose Gilberto Rivas, acting in the course and scope of his employment with the United States Postal Service, was operating a USPS GM LLV-A truck, owned by the United States Postal Service.

III.3 On the date in question, Mr. Rivas was driving on the 900 block of Plaza Drive in Mission, Hidalgo County, Texas. He had stopped at the intersection of Plaza Drive and Saint Clair Street. Furthermore, the traffic driving on Saint Clair Street possessed the right of way.

III.4 Unfortunately, as Plaintiff was passing Plaza Drive, Mr. Rivas pulled out into Saint Clair Street from Plaza Drive, hitting the vehicle with Plaintiff was driving.

III.5 As a result of the collision between the vehicles being driven by Mr. Rivas and Plaintiff, Plaintiff was injured.

IV.

CAUSE OF ACTION

IV.1 The above and foregoing conduct constitutes negligence. Mr. Rivas was negligent in one or more of the following respects:

Failure to maintain a proper lookout; and

Failure to yield right of way.

IV.2 As a proximate result of such negligence, the incident occurred and Defendant suffered injuries.

V.

DAMAGES

V.1 As a result of Plaintiff has suffered and will suffer the following damages:

Pain and suffering in the past;

Pain and suffering in the future;

Mental anguish in the past;

Mental anguish in the future;

Reasonable and necessary medical expenses in the past; and

Reasonable and necessary medical expenses in the future.

V.2 Such damages are approximately \$30,000.

V.3 Plaintiff is entitled to pre-judgment and post-judgment interest at the maximum rate as provided by law.

VI.

AFFIRMATIVE PLEAS

VI.1 All conditions precedent have been satisfied prior to the filing of this lawsuit. Specifically, Plaintiff filed a complaint pursuant to the federal Tort Claims Act and such request was denied. This lawsuit is being filed less than six months have the denial.

VI.2 Plaintiff is **not** suing Jose Gilberto Rivas individually.

VII.

CONCLUSION AND PRAYER

WHEREFORE, Juan Fernando Chavez, Plaintiff, respectfully prays that upon trial on the merits, that he recover his actual damages, and for general relief.

Respectfully submitted,

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___/s/___ Hitesh K. Chugani___
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